

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application of:

Larry L. Hood

Application No.: 09/819,561

Filed: March 27, 2001

METHOD AND APPARATUS FOR  
MODIFICATIONS OF VISUAL ACUITY  
BY THERMAL MEANS

Examiner: David M. Shay

Art Group: 3739

**DECLARATION OF DANIEL DURRIE UNDER 37 C.F.R. §1.132**

I, Daniel Durrie, hereby declare that:

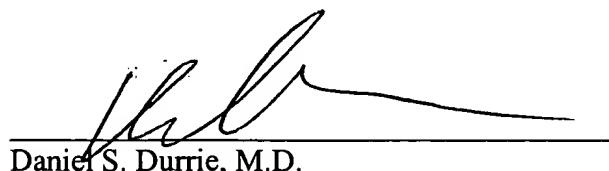
1. I am a practicing ophthalmologist. A copy of my Curriculum Vitae is attached as Exhibit A.
2. I have read the above entitled patent application.
3. I have also reviewed U.S. Patent No. 4, 907,586, issued to Bille et al. ("the Bille patent").
4. It is my opinion that Bille does not disclose a technique for denaturing corneal tissue to reshape a cornea. Bille discloses a procedure whereby corneal tissue is either ablated or changed to a semi-liquid form. It is my opinion that this is not "denaturing" tissue in the context of the above entitled application.

5. I reviewed and agree with the following statement that has been provided to the Patent Office by the Applicant to distinguish the claims of the above entitled application from the Bille patent.

"Bille discloses applying a large amount of energy in the range of 10 megawatts to either fully ablate tissue, or modify tissue into a semi-liquid state. The claims recite denaturing tissue not ablating tissue. The claimed process provides enough energy to change the helical tissue structure without creating damage that causes the body to repair the denatured area. Changing the helical structure modifies the refractive power of the cornea. This is to be distinguished from Bille which discloses changing the tissue into a semi-liquid state. The Applicant contends that changing the tissue to a semi-liquid state will cause the body to repair the tissue back to the original state. This will cause regression in the change of refractive power. Bille does not disclose or suggest to merely denature the tissue."

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 8/16/05 2005



Daniel S. Durrie, M.D.



## CURRICULUM VITAE

### **Daniel S. Durrie, M. D.**

#### **Personal**

Date of Birth: April 30, 1949  
Place of Birth: Lincoln, Nebraska  
Marital Status: Wife Anne (Trowbridge) Durrie; daughter Erin Durrie Stahl

#### Home address:

5415 Mission Drive  
Shawnee Mission, KS 66208  
PH: (913) 831-6997

#### Office:

Durrie Vision  
5520 College Blvd, Suite 201  
Overland Park, KS 66211  
PH: (913) 491-3737  
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#### **Education**

BS Chemistry  
University of Nebraska  
Lincoln, Nebraska  
1967 - 1971

MD  
University of Nebraska Medical Center  
Omaha, Nebraska  
1971 - 1975

#### **Ophthalmology Residency**

University of Nebraska Medical Center  
Omaha, Nebraska  
1975 - 1978

#### **Corneal Fellowship**

Filkins Eye Consultants  
Director - John C. Filkins, M. D.  
Omaha, Nebraska  
1978-1979

### **President**

Durrie Vision, PA  
5520 College Blvd, Suite 201  
Overland Park, KS 66211  
October 2002 – Present

### **Licensure**

Missouri License      MDR2K67  
Kansas License      04-23098

### **Academic Appointments**

Clinical Associate Professor, Ophthalmology, University of Kansas Medical Center,  
Kansas City, Kansas  
Clinical Assistant Professor, Ophthalmology, University of Missouri at Kansas City  
Adjunct Faculty Member, Pennsylvania College of Optometry, Philadelphia  
Director, Ophthalmic Refractive Surgery Fellowship Program, 1993 - present  
Director, Optometric Refractive Surgery Fellowship Program, 1993 - present

### **Recognition**

The Best Doctors in America (one of 9 Kansas City MD's)  
Best Ophthalmologists in America (named by *Ophthalmology*)  
America's Top Doctors  
Fellow, American Academy of Ophthalmology  
Distinguished Lans Lectureship, International Society of Refractive Surgery, 1996  
Pioneer in Refractive Surgery, 1999  
Certified by Council on Refractive Surgery Quality Assurance, 2001  
Barraquer Lecturer, American Academy of Ophthalmology, 2002

### **Positions**

American Society of Cataract and Refractive Surgeons, ESEC Committee, 2001-present  
Advisory Board, eSinoMed.com  
Board of Directors, American College of Eye Surgeons 1998-present  
Board of Directors, International Society of Refractive Surgery 1988-1990; 1996-present  
Board of Directors, Eye Bank Association of America 1982-1988  
Board of Directors, Clinical Refractive Surgery Quality Assurance, 1999  
Editorial Board, Ocular Surgery News, Refractive Surgery Section Leader  
Editorial Board, Journal of Corneal and Refractive Surgery  
Editorial Board, Review of Ophthalmology  
Editorial Board, Refractive Eyecare for Ophthalmologists  
ISRK Associate Program Chairman, 1993  
Medical Director, Nebraska Lions Eye Bank, 1979-1989  
Manuscript Reviewer, Ophthalmology, 1991 - present

Medical Staff Member,: St. Luke's Hospital, Children's Mercy Hospital, Trinity Lutheran Hospital, Truman Medical Center  
Fellowship Director, Ophthalmology, Hunkeler Eye Clinic, 1993-present  
Fellowship Director, Optometry, Hunkeler Eye Clinic, 1993-present  
(sole Refractive Surgery Optometry Fellowship in the country)  
Prevent Blindness America - Refractive Surgery Task Force - 1996 - present  
Member, International Refractive Surgery Club  
LASIK Campaign Spokesperson for ASCRS Medical Advisory Board

## MEMBERSHIPS

American Academy of Ophthalmology  
American Society Cataract and Refractive Surgery  
International Society of Refractive Surgery  
American College of Eye Surgeons  
ARVO  
Missouri State Ophthalmological Society  
Kansas City Ophthalmology and Otolaryngology  
International Intra-Ocular Implant Club

## Research

*Consultant for:*

*Alcon*  
*Bausch & Lomb*  
*Nidek Technology*  
*Refractec*  
*Ophtec*  
*Allergan*  
*PolyVue*  
*Wavetech*  
*CIBAVision*  
*RXVP*

## PUBLICATIONS:

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2. Epikeratophakia for Keratoconus: The Nationwide Study. Marguerite B. McDonald, H. E. Kaufman, Daniel S. Durrie, R. H. Keates, D. R. Sanders. Archives of Ophthalmology, 1986; 104 (9); 1294-300.

3. The Nationwide Study of Epikeratophakia for Aphakia in Children. K. S. Morgan, Marguerite McDonald, D. A. Hiles, J V. Aquavella, Daniel S. Durrie. *The American Journal of Ophthalmology*.
4. The Nationwide Study of Epikeratophakia for Myopia. M. B. McDonald, H. E. Kaufman, J. V. Aquavella, Daniel S. Durrie, D. A. Hiles, J. D. Hunkeler, R. H. Keates, K. S. Morgan, D. R. Sanders, *American Journal of Ophthalmology*, 1987 Mar 15; (103 (3 pt 2) 384-91.
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6. Secondary Intraocular Lens Implantation vs Epikeratophakia for the Treatment of Aphakia. Daniel S. Durrie, T. R. Dietze.  
*American Journal of Ophthalmology*, 1987 Mar 15; (3 Pt 2): 384-91.
7. Meaningful Evaluation of Refractive Surgery (letter). L. T. Nordan, L. Bores, S. Brint, D. Dulaney, Daniel S. Durrie, W. Herman, M. Koby, F. Kremer, W. A. Lyle, R. Maddox, et al.  
*Journal of Cataract and Refractive Surgery*, 1988 Jan: 14 (1): 99-100.
8. Indications and Treatment of Keratoconus Using Epikeratophakia.  
T. R. Dietze, Daniel S. Durrie.  
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K. S. Mortan, M. B. McDonald, D. A. Hiles, J. V. Aquavella, Daniel S. Durrie, J. D. Hunkeler, H. E. Kaufman, R. H. Keates, D. R. Sanders.  
*Ophthalmology* 1988 Apr 95: (4): 526-32.
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*Refractive & Corneal Surgery*, 1990 Jan-Feb: 6(1):59
11. Epikeratoplasty in the management of keratoconus with aphakia [letter]  
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*Am J Ophthalmol*. 1992 Jul 15;114(1): 96-7
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Gordon, M. D., S. F. Brint, M. D., D. S. Durrie, M. D., T. Seiler, M. D., N. M. Friedman, F. Johnson, M. C., King, D. Moller  
*SPIE Proceeding* 1644, 1992

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G. Cibis, M. D., D. S. Durrie, M. D., T. B. Cavanaugh, M. D., S. Reidel  
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Refractive & Corneal Surgery 9(2 Suppl): S81-5, 1993, Mar-Apr.
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